

December 8, 2009

Peter W. Denton  
D 202 778 9469  
F 202 778 9100  
[peter.denton@klgates.com](mailto:peter.denton@klgates.com)

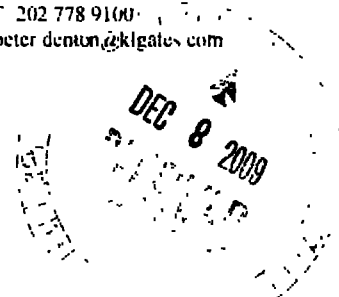
**Via Hand Delivery**

Ms. Cynthia T. Brown, Chief  
Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 F Street SW  
Washington, DC 20024

**FEE RECEIVED**

DEC - 8 2009

**SURFACE  
TRANSPORTATION BOARD**



226132

Re: STB Docket No. AB-1050X  
Regional Rail Right of Way Company — Abandonment Exemption — In Collin and  
Dallas Counties, Texas

226133

STB Docket No. AB-585 (Sub-No. 4X)  
Dallas, Garland and Northeastern Railroad, Inc. — Discontinuance Exemption — In  
Collin and Dallas Counties, Texas

226134

STB Docket No. AB-33 (Sub-No. 288X)  
Union Pacific Railroad Company — Discontinuance Exemption — In Collin and  
Dallas Counties, Texas

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the Verified Joint Notice of Exemption of Regional Rail Right of Way Company, Dallas, Garland and Northeastern Railroad, Inc., and Union Pacific Railroad Company, dated December 8, 2009. A check in the amount of \$11,100.00, representing the appropriate filing fee for this transaction, is attached. A copy of the Environmental/Historic Report accompanying the Notice has been provided directly to the Board's Section of Environmental Analysis.

An additional copy of this letter is enclosed for date-stamp and return to our messenger.

**FILED**

DEC - 8 2009

**SURFACE  
TRANSPORTATION BOARD**

**ENTERED**  
Office of Proceedings

DEC - 8 2009

Part of  
Public Record

December 8, 2009

Page 2

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter W. Denton', with a long horizontal line extending to the right.

Peter W. Denton

Enclosures

ENTERED  
Office of Proceedings  
DEC - 8 2009  
Part of  
Public Record

BEFORE THE  
SURFACE TRANSPORTATION BOARD

226132  
DOCKET NO. AB-1050X

REGIONAL RAIL RIGHT OF WAY COMPANY  
— ABANDONMENT EXEMPTION —  
IN COLLIN AND DALLAS COUNTIES, TEXAS

226133  
DOCKET NO. AB-585 (Sub-No. 4X)

DALLAS, GARLAND AND NORTHEASTERN RAILROAD, INC.  
— DISCONTINUANCE EXEMPTION —  
IN COLLIN AND DALLAS COUNTIES, TEXAS

226134  
DOCKET NO. AB-33 (Sub-No. 288X)

UNION PACIFIC RAILROAD COMPANY  
— DISCONTINUANCE EXEMPTION —  
IN COLLIN AND DALLAS COUNTIES, TEXAS

JOINT NOTICE OF EXEMPTION

Edward J. Fishman  
Peter W. Denton  
K&L Gates LLP  
1601 K Street, NW  
Washington, DC 20006  
**ATTORNEYS FOR REGIONAL RAIL RIGHT OF  
WAY COMPANY**

Scott Williams, Senior V.P. and General Counsel  
RailAmerica  
7411 Fullerton Street, Suite 300  
Jacksonville, FL 32256  
**ATTORNEY FOR DALLAS, GARLAND AND  
NORTHEASTERN RAILROAD**

Mack H. Shumate, Jr., Senior General Attorney  
Union Pacific Railroad Company  
101 North Wacker Drive, Room 1920  
Chicago, IL 60606  
**ATTORNEY FOR UNION PACIFIC RAILROAD**

Dated: December 8, 2009

**FILED**  
DEC - 8 2009  
SURFACE  
TRANSPORTATION BOARD

**FEE RECEIVED**  
DEC - 8 2009  
SURFACE  
TRANSPORTATION BOARD

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**DOCKET NO. AB-1050X**

**REGIONAL RAIL RIGHT OF WAY COMPANY  
— ABANDONMENT EXEMPTION —  
IN COLLIN AND DALLAS COUNTIES, TEXAS**

**DOCKET NO. AB-585 (Sub-No. 4X)**

**DALLAS, GARLAND AND NORTHEASTERN RAILROAD, INC.  
— DISCONTINUANCE EXEMPTION —  
IN COLLIN AND DALLAS COUNTIES, TEXAS**

**DOCKET NO. AB-33 (Sub-No. 288X)**

**UNION PACIFIC RAILROAD COMPANY  
— DISCONTINUANCE EXEMPTION —  
IN COLLIN AND DALLAS COUNTIES, TEXAS**

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**JOINT NOTICE OF EXEMPTION**

Regional Rail Right of Way Company ("RRROW"), Dallas, Garland and Northeastern Railroad, Inc. ("DGNO"), and Union Pacific Railroad Company ("UP") (collectively, the "Applicants") hereby file this Joint Notice of Exemption pursuant to 49 C.F.R. § 1152.50 for RRROW to abandon, and DGNO and UP to discontinue trackage rights over, a portion of the Cotton Belt railroad line between approximately milepost 592.43 at Renner Junction and approximately milepost 597.77 at Knoll Trail Road (the "Subject Line"), a distance of approximately 5.34 miles, within Collin and Dallas Counties. In accordance with 49 C.F.R. § 1152.50(d)(2), RRROW, DGNO and UP submit the following information:

**Proposed Consummation Date: 49 C.F.R. § 1152.50(d)(2)**

RRROW intends to railbank the Subject Line under the National Trails System Act, and DGNO and UP intend to discontinue their trackage rights over the Subject Line, on or after January 27, 2010 (at least 50 days after filing this Notice of Exemption).

**Qualification for Class Exemption: 49 C.F.R. § 1152.50(b)**

RRROW, DGNO, and UP certify that no local traffic has moved over the Subject Line for at least two years and any overhead traffic on the line can be rerouted over other lines and that no formal complaint filed by a user of rail service on the Subject Line (or a state or local governmental entity acting on behalf of such user) regarding cessation of service over the Subject Line either is pending with the Surface Transportation Board (the "Board") or any U.S. District Court or has been decided in favor of such complainant during the last two years. See Certifications of Wayne Friesner (for RRROW), Sandra K. Franger (for DGNO), and Raymond E. Allamong, Jr. (for UP) attached hereto as Exhibits A, B, and C, respectively.

**Exact Names of Applicants: 49 C.F.R. § 1152.22(a)(1)**

The Applicants' exact names are:

Regional Rail Right of Way Company;

Dallas, Garland and Northeastern Railroad, Inc.; and

Union Pacific Railroad Company.

**Common Carrier Status: 49 C.F.R. § 1152.22(a)(2)**

RRROW, DGNO, and UP are all common carriers by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

The Subject Line was constructed in approximately 1888 by the St. Louis, Arkansas and Texas Railway Company as part of a route between Mt. Pleasant and Ft. Worth, and eventually

came under control of the St. Louis Southwestern Railway Company (“SSW”). Dallas Area Rapid Transit Property Acquisition Corporation (“DARTPAC”) acquired the Subject Line from SSW in 1990 for future use as a public transit corridor. See Dallas Area Rapid Transit Property Acquisition Corporation – Acquisition and Operation Exemption – Rail Lines of Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, and Dallas Terminal and Union Depot Company, Finance Docket No. 31267 (ICC served December 3, 1990) (authorizing, inter alia, DARTPAC’s acquisition of the SSW rail line between Ft. Worth, TX at approximately milepost 632.27 and Wylie, TX at approximately milepost 578.20). As part of that transaction, DARTPAC granted SSW local and overhead trackage rights over the Subject Line. See St. Louis Southwestern Railway Company – Trackage Rights Exemption – Dallas Area Rapid Transit Property Acquisition Corporation, Finance Docket No. 31806 (ICC served January 11, 1991).

In 1999, DGNO acquired from UP, a successor in interest to SSW, local trackage rights over the Subject Line. See Dallas, Garland & Northeastern Railroad, Inc. – Lease Exemption – Union Pacific Railroad Company, Finance Docket No. 33686 (STB served February 5, 1999) (authorizing, inter alia, DGNO’s acquisition of local trackage rights between milepost 603.5, at Carrollton, and milepost 580.19, at Wylie).

In 2003, Dallas Area Rapid Transit (“DART”) acquired from RRROW, a successor in interest to DARTPAC, the right, title, and ownership interest in the right-of-way, trackage, and other physical assets associated with the Subject Line, subject to RRROW’s reservation of an exclusive, perpetual freight rail operating easement. See Dallas Area Rapid Transit – Acquisition Exemption – Certain Assets of Regional Rail Right of Way Company, Finance Docket No. 34346 (STB served June 3, 2003) (authorizing, inter alia, DART’s acquisition of the

line of railroad extending between approximately milepost 632.27 near Ft. Worth, TX, and approximately milepost 578.20 near Wylie, TX).

As a result of the foregoing transactions, DART currently owns the Subject Line, RRROW owns a freight rail operating easement over the Subject Line (including the attendant residual common carrier obligation to provide freight service), and DGNO owns local trackage rights over the Subject Line. While RRROW does not believe that UP retained any trackage rights over the Subject Line as a result of the aforementioned 1999 transaction with DGNO, UP is joining this action out of an abundance of caution to discontinue any trackage rights that UP may own over the Subject Line.

DGNO no longer provides freight rail service on the Subject Line. UP has not provided freight service on the line for many years. DART does not at this point use the Subject Line as part of its rail transit system, but may do so in the future. No freight rail traffic of any kind has moved on the Subject Line for at least the last two (2) years.

**Relief Sought: 49 C.F.R. § 1152.22(a)(3)**

Pursuant to the class exemption for the abandonment and discontinuance of service over out-of-service rail lines, codified at 49 C.F.R. § 1152.50(b), RRROW seeks to abandon, and DGNO and UP seek to discontinue trackage rights over, the Subject Line, between approximately milepost 592.43 at Renner Junction and approximately milepost 597.77 at Knoll Trail Road, a distance of approximately 5.34 miles, within Collin and Dallas Counties.

**Map: 49 C.F.R. § 1152.22(a)(4)**

A detailed map of the Subject Line showing the exact location of the Subject Line and its relation to other rail lines, highways, water routes and population centers is attached hereto as Exhibit D.

**Applicants' Representatives: 49 C.F.R. § 1152.22(a)(7)**

Any questions concerning this application should be sent to RRROW, DGNO, and UP representatives at the following addresses:

For RRROW:  
Edward J. Fishman  
Peter W. Denton  
K&L Gates LLP  
1601 K Street, NW  
Washington, DC 20006

For DGNO:  
Scott Williams, Senior V.P. and General Counsel  
RailAmerica  
7411 Fullerton Street, Suite 300  
Jacksonville, FL 32256

For UP:  
Mack H. Shumate, Jr., Senior General Attorney  
Union Pacific Railroad Company  
101 North Wacker Drive, Room 1920  
Chicago, IL 60606

**Zip Codes of the Subject Line: 49 C.F.R. § 1152.22(a)(8)**

The Subject Line traverses one or more of the following United States Postal Service ZIP codes: 75248, 75252, and 75080.

**Suitability for Other Public Purposes: 49 C.F.R. § 1152.22(e)(4)**

The right-of-way of the Subject Line may be suitable for alternative public use under 49 U.S.C. § 10905, including future use as part of a public transit corridor or potential use as a recreational trail. RRROW has plans to railbank the Subject Line for these purposes under the National Trails System Act following the effective date of this abandonment exemption notice. The Applicants are not aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of the property for other than rail purposes.



**Labor Protection: 49 C.F.R. § 1152.50(d)(2)**

The appropriate level of labor protection for the abandonment and discontinuance of service transactions proposed herein is that set forth in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

**Notice Requirement: 49 C.F.R. §§ 1152.50(d)(2)**

A certificate that the notice requirement of 49 C.F.R. §§ 1152.50(d)(1) has been complied with is attached hereto as Exhibit E.

**Environmental and Historic Report: 49 C.F.R. § 1105**

A copy of the Environmental and Historic Report (the “Report”) prepared in compliance with the requirements and specifications of 49 C.F.R. § 1105 is attached hereto as Exhibit F. Certificates that the notice requirements of 49 C.F.R. §§ 1105.11 and 1105.12 have been complied with are attached to the Report as Appendices F and G, respectively. The original Report was filed with Victoria Rutson, Section of Environmental Analysis, on November 18, 2009. The Report concludes that the proposed abandonment and discontinuance, if implemented, will not significantly affect either the quality of the human environment or the conservation of energy resources.

Respectfully submitted,

By:   
\_\_\_\_\_

Edward J. Fishman

Peter W. Denton

K&L Gates LLP

1601 K Street, NW

Washington, DC 20006

**ATTORNEYS FOR REGIONAL RAIL RIGHT OF  
WAY COMPANY**

Scott Williams, Senior V.P. and General Counsel  
RailAmerica

7411 Fullerton Street, Suite 300

Jacksonville, FL 32256

**ATTORNEY FOR DALLAS, GARLAND AND  
NORTHEASTERN RAILROAD**

Mack H. Shumate, Jr., Senior General Attorney

Union Pacific Railroad Company

101 North Wacker Drive, Room 1920

Chicago, IL 60606

**ATTORNEY FOR UNION PACIFIC RAILROAD**

Dated: December 8, 2009

**EXHIBIT A**  
**CERTIFICATION**


State of Texas                     )  
  )    SS:  
County of Dallas                )

Wayne Friesner, being duly sworn, deposes and says that he is President of Regional Rail Right of Way Company, and that to the best of his knowledge, information and belief:

No local freight rail traffic has moved over the railroad line extending between approximately milepost 592.43 at Renner Junction and approximately milepost 597.77 at Knoll Trail Road (the "Subject Line") within Collin and Dallas Counties, Texas within the last two (2) years and any overhead traffic on the line can be rerouted over other lines. No formal complaint filed by a user of rail service on the Subject Line (or a state or local governmental entity acting on behalf of such user) regarding cessation of service over the Subject Line either is pending with the Board or any U.S. District Court or has been decided in favor of such complainant during the last two years.

  
Wayne Friesner

SUBSCRIBED AND SWORN to  
before me this 2<sup>nd</sup> day  
of December, 2009.

  
Notary Public

My Commission expires: July 9, 2010



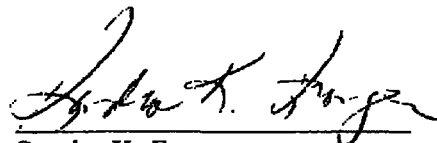
**EXHIBIT B**

**CERTIFICATION**

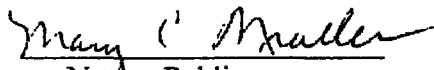
State of ~~Texas~~ FLORIDA )  
County of Duval ) SS:

Sandra K. Franger, being duly sworn, deposes and says that she is the Vice President – Contracts & Inter-carrier Agreements for RailAmerica, owner of the Dallas, Garland and Northeastern Railroad, Inc., and that to the best of her knowledge, information and belief:

No local freight rail traffic has moved over the railroad line extending between approximately milepost 592.43 at Renner Junction and approximately milepost 597.77 at Knoll Trail Road (the "Subject Line") within Collin and Dallas Counties, Texas within the last two (2) years and any overhead traffic on the line can be rerouted over other lines. No formal complaint filed by a user of rail service on the Subject Line (or a state or local governmental entity acting on behalf of such user) regarding cessation of service over the Subject Line either is pending with the Board or any U.S. District Court or has been decided in favor of such complainant during the last two years.

  
Sandra K. Franger

SUBSCRIBED AND SWORN to  
before me this 8<sup>th</sup> day  
of December, 2009.

  
Notary Public

*Sandra K. Franger is personally known to me.*  
My Commission expires:

Mary C. Mueller  
Notary Public, State of Florida  
My Comm. expires April 30, 2010  
Comm No DD 532223

**EXHIBIT C**

**CERTIFICATION**

State of Nebraska                     )  
  )    SS:  
County of Douglas                 )

Raymond E. Allamong, Jr., being duly sworn, deposes and says that he is the Senior Manager Rail Line Planning of Union Pacific Railroad Company, and that to the best of his knowledge, information and belief:

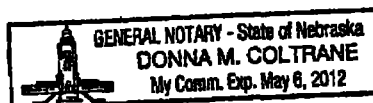
No local freight rail traffic has moved over the railroad line extending between approximately milepost 592.43 at Renner Junction and approximately milepost 597.77 at Knoll Trail Road (the "Subject Line") within Collin and Dallas Counties, Texas within the last two (2) years and any overhead traffic on the line can be rerouted over other lines. No formal complaint filed by a user of rail service on the Subject Line (or a state or local governmental entity acting on behalf of such user) regarding cessation of service over the Subject Line either is pending with the Board or any U.S. District Court or has been decided in favor of such complainant during the last two years.

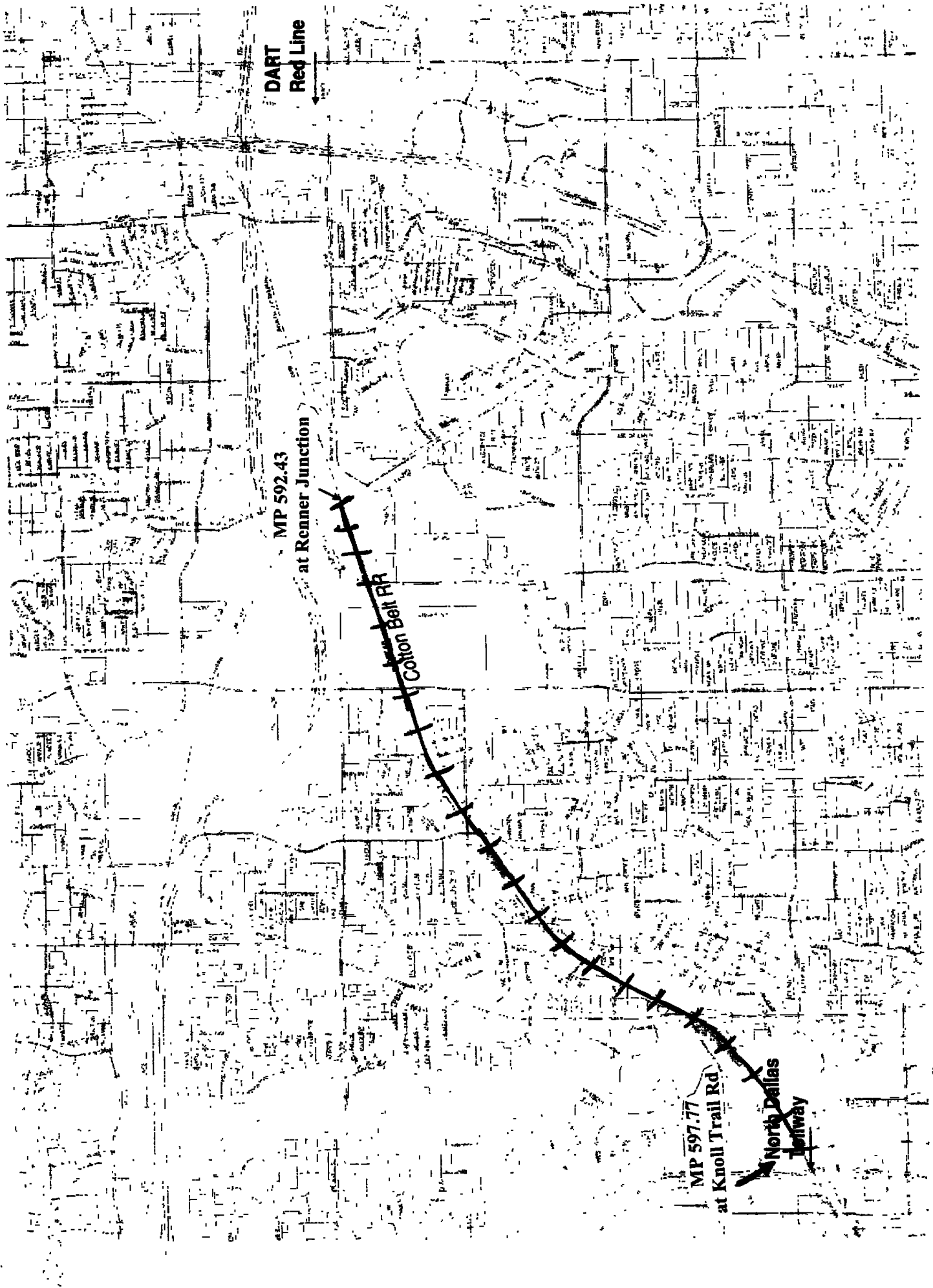
  
Raymond E. Allamong, Jr.

SUBSCRIBED AND SWORN to  
before me this 7<sup>th</sup> day  
of December, 2009.

  
Notary Public

My Commission expires:





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**EXHIBIT E**

**CERTIFICATE OF SERVICE: 49 C.F.R. § 1152.50(d)(1)**

I hereby certify that on November 25, 2009 (at least 10 days before this Notice of Exemption is filed), a written notice containing the information specified in 49 C.F.R. § 1152.50(d)(1) was served upon the following agencies as designated in that section:

Railroad Commission Of Texas  
P.O. Box 12967  
Austin, Texas 78711-2967

U.S. Department of Defense (SDDCTEA)  
Railroads For National Defense Program  
709 Ward Drive  
Bldg. 1990, Room 2E264  
Scott AFB, IL 62225

National Park Service  
National Center For Recreation And Conservation  
1849 C Street, NW  
Org. Code 2220  
Washington, D.C. 20240

USDA Forest Service  
Attn: Thomas Tidwell, Chief of the Forest Service  
Mailstop 1144  
1400 Independence Ave., SW  
Washington, D.C. 20250

  
\_\_\_\_\_  
Peter W. Denton

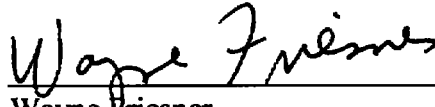
Dated: December 8, 2009




**VERIFICATION**

State of Texas                                 )  
  ) SS:  
County of Dallas                            )

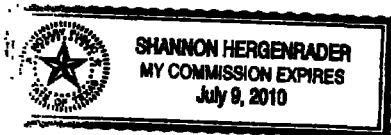
Wayne Friesner, being duly sworn, deposes and says that he is President of Regional Rail Right of Way Company, that he has read the foregoing Notice of Exemption and knows the facts asserted therein, and that the same are true as stated, to the best of his knowledge, information and belief.

  
\_\_\_\_\_  
Wayne Friesner


SUBSCRIBED AND SWORN to  
before me this 2<sup>nd</sup> day of December, 2009.


  
\_\_\_\_\_  
Notary Public

My Commission expires: July 9, 2010



State of ~~Texas~~ Florida )  
County of Duval ) SS:

  
Sandra K. Franger

  
Notary Public  
**JENNIFER L. TAYLOR**

**JENNIFER L. TAYLOR**  
Comm# DD0891667  
Expires 6/26/2013  
Florida Notary Assn., Inc

## VERIFICATION

**State of Nebraska**  
**County of Douglas**

)  
) **SS:**  
)

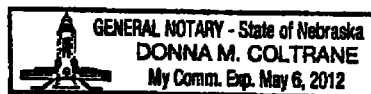
**Raymond E. Allamong, Jr., being duly sworn, deposes and says that he is the Senior Manager Rail Line Planning of Union Pacific Railroad Company, and that he has read the foregoing Notice of Exemption and knows the facts asserted therein, and that the same are true as stated, to the best of his knowledge, information and belief.**

Raymond E. Allamong, Jr.  
Raymond E. Allamong, Jr.

SUBSCRIBED AND SWORN to  
before me this 14th day of December, 2009.

Donna M. Coltrane  
Notary Public

**My Commission expires:**



BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

DOCKET NO. AB-1050X

REGIONAL RAIL RIGHT OF WAY COMPANY  
— ABANDONMENT EXEMPTION —  
IN COLLIN AND DALLAS COUNTIES, TEXAS

DOCKET NO. AB-585 (Sub-No. 4X)

DALLAS, GARLAND AND NORTHEASTERN RAILROAD, INC.  
— DISCONTINUANCE EXEMPTION —  
IN COLLIN AND DALLAS COUNTIES, TEXAS

DOCKET NO. AB-33 (Sub-No. 288X)

UNION PACIFIC RAILROAD COMPANY  
— DISCONTINUANCE EXEMPTION —  
IN COLLIN AND DALLAS COUNTIES, TEXAS

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**ENVIRONMENTAL/HISTORIC REPORT**

Regional Rail Right of Way Company ("RRROW"), the Dallas, Garland and Northeastern Railroad, Inc. ("DGNO"), and the Union Pacific Railroad Company ("UP") (collectively, the "Applicants") submit this Environmental/Historic Report (the "Report") in accordance with the reporting requirements of 49 C.F.R. §§ 1105.7 and 1105.8. It is the conclusion of the Report that the proposed abandonment and discontinuance, if implemented, will not significantly affect the quality of the human environment, the conservation of energy resources, or historically significant or archaeological sites. Supporting correspondence and certifications are attached.

**Environmental Report - 49 C.F.R. § 1105.7(e)**

1. **Proposed Action and Alternatives.** Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other

**structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.**

RRROW, an affiliate of Dallas Area Rapid Transit ("DART"), seeks to abandon common carrier freight service over a portion of the Cotton Belt railroad line between approximately milepost 592.43 at Renner Junction and approximately milepost 597.77 at Knoll Trail Road (the "Subject Line"). DGNO and UP seek to discontinue any trackage rights they may have over the Subject Line. The total distance of the Subject Line is approximately 5.34 miles, within Collin and Dallas Counties, Texas. No local or overhead freight rail traffic of any kind has moved over the Subject Line for at least the past two (2) years.

No alternatives to the proposed abandonment and discontinuance have been considered. The only alternative is retention of the Subject Line in its current, unused state, which would have no environmental impact.

A map showing the location of the Subject Line is attached hereto as Appendix A.

**2. Transportation System. Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.**

The Applicants do not anticipate that existing regional or local transportation systems or patterns will be adversely affected by the proposed abandonment and discontinuance of freight rail service. No freight rail traffic of any kind has moved over the Subject Line for at least the past two (2) years.

**3. Land Use.**

**(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.**

While the Applicants do not foresee any inconsistency with regional and/or local land use plans, the Applicants sought consultation with the Collin County Director of Engineering and the Dallas County Director of Public Works. See correspondence attached hereto as Appendix B. To date, no response has been received. Upon receipt of a response, the Applicants will forward the response to the Surface Transportation Board (the "Board").

**(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.**

The Applicants do not foresee the proposed abandonment and discontinuance having any adverse impact on prime agricultural land or farmland resources. The Applicants sought consultation with the Natural Resources Conservation Service ("NRCS"), the successor agency to the U.S. Soil Conservation Service. See Appendix B. NRCS stated that the proposal "should have no significant adverse impact on the environmental or natural resources in the area. We do not require any permits, easements, or approvals for activities such as this." See correspondence attached hereto as Appendix C.

**(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by §1105.9.**

Not Applicable. The Applicants do not foresee the proposed abandonment and discontinuance having any effect on land or water uses within a designated coastal zone. The Applicants sought consultation with the Texas Coastal Management Division. See Appendix B. To date, no response has been received. Upon receipt of a response, the Applicants will forward the response to the Board.

**(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.**

Upon receipt of abandonment authority from the Board, RRROW plans to railbank the Subject Line pursuant to the National Trails System Act and in the future DART may use the underlying right-of-way as part of a public transit corridor.

**4. Energy.**

**(i) Describe the effect of the proposed action on transportation of energy resources.**

The proposed abandonment and discontinuance will not affect the transportation of energy resources. No freight rail traffic of any kind has moved over the Subject Line for at least the last two (2) years, and the Applicants foresee little possibility that new on-line freight traffic would develop in the future.

**(ii) Describe the effect of the proposed action on recyclable commodities.**

The proposed abandonment and discontinuance will not affect the movement and/or recovery of recyclable commodities. No recyclable commodities have moved over the Subject Line for at least the past two (2) years, and the Applicants foresee little possibility that any recyclable commodity traffic would develop in the future.

**(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.**

The proposed abandonment and discontinuance will not result in an increase or decrease in overall energy efficiency. No freight rail traffic of any kind has moved over the Subject Line for at least the past two (2) years.

**(iv) If the proposed action will cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in §1105.7(e)(4)(iii) need not be supplied if the more detailed information in §1105.7(e)(4)(iv) is required.**

Not applicable. The proposed abandonment and discontinuance will not cause the diversion to motor carriers of more than 1,000 rail carloads per year or an average of 50 rail carloads per mile per year. No freight rail traffic of any kind has moved over the Subject Line for at least the past two (2) years.

**5.     Air.**

**(i)     If the proposed action will result in either: (A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or (B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or (C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.**

Not applicable. The proposed abandonment and discontinuance will not result in traffic increases which exceed the thresholds specified in this section.

**(ii)     If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either: (A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, (B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or (C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan.**

Not applicable. The proposed abandonment and discontinuance will not result in traffic increases that exceed the thresholds specified in this section.

**(iii)    If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.**

Not applicable. No ozone depleting materials have been transported over the Subject Line for at least the last two (2) years, and no such shipments will be diverted as a result of the proposed abandonment and discontinuance. The proposed abandonment and discontinuance will



not impact air quality standards, significantly increase ozone precursor emissions or require a general conformity analysis. The Applicants have sought consultation with the Texas Commission on Environmental Quality and the U.S. Environmental Protection Agency. See Appendix B. To date, no response has been received. Upon receipt of a response, the Applicants will forward the response to the Board.

**6. Noise. If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause: (i) An incremental increase in noise levels of three decibels Ldn or more; or (ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.**

Not applicable. None of the thresholds identified in 49 C.F.R. § 1105.7(e)(5)(i) will be exceeded as a result of the proposed abandonment and discontinuance.

**7. Safety.**

**(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).**

No freight rail operations have occurred on the Subject Line for at least the last two (2) years, and thus the proposed abandonment and discontinuance will have no effect upon public health or safety.

**(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.**

Not applicable. No hazardous materials are expected to be transported as a result of the proposed abandonment and discontinuance of service.

**(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.**

The Applicants are not aware of any hazardous waste sites or sites where there have been hazardous material spills on the right-of-way of the Subject Line. The Applicants have sought consultation with the Texas Commission on Environmental Quality and the U.S. Environmental Protection Agency. See Appendix B. To date, no response has been received. Upon receipt of a response, the Applicants will forward the response to the Board.

**8. Biological Resources.**

**(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.**

The proposed abandonment and discontinuance will not adversely affect endangered or threatened species or areas designated as a critical habitat. The Applicants do not plan on engaging in any salvage activities after receiving abandonment authority from the Board. The rail and other structures on the Subject Line will be left intact for possible future use by DART for passenger rail service. The Applicants have sought consultation with the Texas Commission on Environmental Quality (“TCEQ”), the U.S. Fish and Wildlife Service (“USFWS”), and the Natural Resources Conservation Service. See Appendix B. NRCS stated that the proposal “should have no significant adverse impact on the environmental or natural resources in the area.” See Appendix C. To date, no response has been received from TCEQ or USFWS. Upon receipt of a response, the Applicants will forward the response to the Board.

**(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.**

The proposed abandonment and discontinuance will not affect wildlife sanctuaries or refuges, National or State parks or forests. The Applicants have sought consultation with the Texas Commission on Environmental Quality, the U.S. Fish and Wildlife Service, the Natural Resources Conservation Service, and the U.S. National Park Service (“USNPS”). See Appendix

B. NRCS stated that the proposal “should have no significant adverse impact on the environmental or natural resources in the area.” See Appendix C. To date, no response has been received from TCEQ, USFWS, or USNPS. Upon receipt of a response, the Applicants will forward the response to the Board.

**9. Water.**

**(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.**

The Applicants believe that the proposed abandonment and discontinuance is consistent with applicable Federal, State or local water quality standards, because any water quality effects from the proposed action would be minimal. No bridges over bodies of water will be removed as part of the proposed action.

**(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.**

As a result of the proposed abandonment and discontinuance, the Applicants do not anticipate the discharge of any materials into navigable waters that would require permits under Section 404 of the Clean Water Act. The proposed abandonment and discontinuance will not affect any designated wetlands or 100-year flood plains. The Applicants will not remove or otherwise alter the contour of the roadbed underlying the Subject Line as part of the proposed action, and thus there should be no impact on existing floodplain management. The Applicants have sought consultation with the U.S. Army Corps of Engineers. See Appendix B. To date, no response has been received. Upon receipt of a response, the Applicants will forward the response to the Board.

**(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U.S.**

**Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)**

As a result of the proposed abandonment and discontinuance, the Applicants do not anticipate the discharge of any materials into navigable waters that would require permits under Section 402 of the Clean Water Act. The Applicants have sought consultation with the U.S. Environmental Protection Agency, and the Texas Commission on Environmental Quality. To date, no response has been received. Upon receipt of a response, the Applicants will forward the response to the Board.

\* \* \* \* \*

In addition to the agencies referenced above, the Applicants sought consultation with the Texas Governor's Office of Budget, Planning, and Policy and the National Geodetic Survey ("NGS") of the National Oceanic and Atmospheric Administration. See Appendix B. To date, no response has been received. Upon receipt of a response, the Applicants will forward the response to the Board.

**Historic Report - 49 C.F.R. § 1105.8(d)**

**1. Map.** A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action.

A map showing the general location of the Subject Line is attached hereto as Appendix

A. A map showing the location of the proposed abandonment and discontinuance and the locations and approximate dimensions of railroad structures that are 50 years old or older is attached hereto as Appendix A-1.

**2. Description of Line.** A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area.

The Subject Line extends between approximately milepost 592.43 at Renner Junction and approximately milepost 597.77 at Knoll Trail Road. The total distance of the Subject Line is approximately 5.34 miles, within Collin and Dallas Counties, Texas. The right-of-way of the Subject Line is approximately 100 feet in width. The surrounding land is mainly suburban residential and light industrial, and the topography is generally flat.

**3. Photographs.** Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area.

Digital color photographs of railroad structures on or adjacent to the Subject Line that are 50 years old or older have been submitted to the Texas Historical Commission by letter dated November 18, 2009. Color copies of those photographs are attached hereto as Appendix D.

**4. Information on Structures.** The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known.

RRROW has determined, based on information in its possession, that there are four bridges on the Subject Line that are fifty (50) years old or older. The relevant characteristics of

these bridge structures are described more fully below. It appears as though Spanky Branch Bridge 2 and McCamy Branch Bridge have been repaired with newer structural members, such that very little of the original bridge materials remain.

### Bridges

<u>Name</u>	<u>Location</u>	<u>Date of Construction</u>	<u>Type</u>
Spanky Branch Bridge 1	Approximately milepost 595.27	1931	Through Plate Girder (41-foot span)
Spanky Branch Bridge 2	Approximately milepost 595.68	1931	Open Deck Pile Trestle (14-foot span)
McCamy Branch Bridge	Approximately milepost 596.16	1937	Open Deck Pile Trestle (14-foot span)
White Rock Creek Bridge	Approximately milepost 597.23	1917	Pony Truss (125-foot span)

**5. History of Operations.** A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action.

The Subject Line was constructed in approximately 1888 by the St. Louis, Arkansas and Texas Railway Company as part of a route between Mt. Pleasant and Ft. Worth, and eventually came under control of the St. Louis Southwestern Railway Company ("SSW").

Dallas Area Rapid Transit Property Acquisition Corporation ("DARTPAC") acquired the Subject Line from SSW in 1990 for future use as a public transit corridor. See Dallas Area Rapid Transit Property Acquisition Corporation – Acquisition and Operation Exemption – Rail Lines of Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, and Dallas Terminal and Union Depot Company, Finance Docket No. 31267 (ICC served December 3, 1990) (authorizing, inter alia, DARTPAC's acquisition of the SSW rail line between Ft. Worth, TX at approximately milepost 632.27 and Wylie, TX at approximately milepost 578.20). As part of that transaction, DARTPAC granted SSW local and overhead trackage rights over the Subject Line. See St. Louis Southwestern Railway Company – Trackage

Rights Exemption – Dallas Area Rapid Transit Property Acquisition Corporation, Finance

Docket No. 31806 (ICC served January 11, 1991).

In 1999, DGNO acquired from Union Pacific Railroad Company (“UP”), a successor in interest to SSW, local trackage rights over the Subject Line. See Dallas, Garland & Northeastern Railroad, Inc. – Lease Exemption – Union Pacific Railroad Company, Finance Docket No. 33686 (STB served February 5, 1999) (authorizing, *inter alia*, DGNO’s acquisition of local trackage rights between milepost 603.5, at Carrollton, and milepost 580.19, at Wylie).

In 2003, DART acquired from RRROW, a successor in interest to DARTPAC, the right, title, and ownership interest in the right-of-way, trackage, and other physical assets associated with the Subject Line, subject to RRROW’s reservation of an exclusive, perpetual freight rail operating easement. See Dallas Area Rapid Transit – Acquisition Exemption – Certain Assets of Regional Rail Right of Way Company, Finance Docket No. 34346 (STB served June 3, 2003) (authorizing, *inter alia*, DART’s acquisition of the line of railroad extending between approximately milepost 632.27 near Ft. Worth, TX, and approximately milepost 578.20 near Wylie, TX).

As a result of the foregoing transactions, DART currently owns the Subject Line, RRROW owns a freight rail operating easement over the Subject Line (including the attendant residual common carrier obligation to provide freight service), and DGNO owns local trackage rights over the Subject Line. While RRROW does not believe that UP retained any trackage rights over the Subject Line as a result of the aforementioned 1999 transaction with DGNO, UP is joining this action out of an abundance of caution to discontinue any trackage rights that UP may own over the Subject Line.

DGNO no longer provides freight rail service on the Subject Line. UP has not provided freight service on the line for many years. DART does not at this point use the Subject Line as part of its rail transit system, but may do so in the future. No freight rail traffic of any kind has moved on the Subject Line for at least the last two (2) years. Therefore, no operational changes are anticipated as a result of the proposed abandonment and discontinuance.

**6. Engineering Documents. A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic.**

Aside from track charts, inspection reports, and valuation maps, the Applicants do not believe they have engineering drawings in their possession that may be useful in documenting the historic structures on the Subject Line.

**7. Historic Criteria. An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities).**

The Applicants believe that one structure on the Subject Line meets the criteria for listing on the National Register of Historic Places (36 CFR 60.4). This structure is identified in Section 4 above as the White Rock Creek Bridge located approximately at milepost 597.23. The Applicants are not aware of any other structures on the Subject Line that are of unique character or historical significance or meet the criteria for listing in the National Register of Historic Places. Based on information obtained from the Texas Historical Commission's ("THC") Texas Archaeological Sites Atlas, the Applicants are aware of one archaeological site with a centroid located approximately 113 meters from the Subject Line, with unknown extents or boundaries. The applicants are not aware of any additional archaeological resources or historic properties in the project area. The Applicants believe that no culturally significant locations, archaeological



sites or unique land forms will be affected by the proposed abandonment. The Applicants have contacted and requested concurrence from the THC regarding the preliminary eligibility of the bridge structures listed in Section 4 for listing on the National Register of Historic Places and the likelihood of additional archaeological sites. See correspondence attached hereto as Appendix E. The Applicants intend to continue to work with THC and other interested parties in order to satisfy any obligations that the Applicants may have as a result of this proposed abandonment and discontinuance under Section 106 of the National Historic Preservation Act.

**8. Ground Disturbance. A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.**

Based on readily available information in their possession, the Applicants believe that subsurface ground disturbance may have occurred when the Subject Line was constructed. The largely suburban and light industrial nature of the area surrounding the Subject Line could adversely affect the archaeological recovery of resources. Access to the Subject Line is good throughout its length.

**Certifications - 49 C.F.R. § 1105.7(c)**

A certification in accordance with 49 C.F.R. § 1105.7(b) that the foregoing Report has been served on each of the agencies designated in Section 1105.7(b) and that the Applicants have consulted with all appropriate agencies in preparing this Report is attached hereto as Appendix F. A certification that, in accordance with 49 C.F.R. § 1105.12, the Applicants have published notice of the proposed abandonment in a newspaper of general circulation in each county through which the Subject Line passes is attached hereto as Appendix G.

## **APPENDIX A**

### **Map of the Subject Line**

DART  
Red Line

MP 592.43  
at Renner Junction

Cotton Belt RR

MP 597.77  
at Knoll Trail Rd

North Dallas  
Railway

## **APPENDIX A-1**

### **Map of Railroad Structures Older Than 50 Years**



- 1: White Rock Creek
- 2: McGamy Branch
- 3: Spanky Branch 2
- 4: Spanky Branch 1

## **APPENDIX B**

### **Environmental Consultation Letter**

October 19, 2009

Peter W. Denton  
D 202.778.9469  
F 202.778.9100  
peter.denton@klgates.com

**Via Certified Mail/Return Receipt Requested**

To: All Parties on the Enclosed Environmental Consultation List

Re: STB Docket No. AB-1050X  
Regional Rail Right of Way Company – Abandonment Exemption – In Collin and Dallas  
Counties, Texas

STB Docket No. AB-585 (Sub-No. 4X)  
Dallas, Garland and Northeastern Railroad – Discontinuance Exemption – In Collin and  
Dallas Counties, Texas

STB Docket No. AB-33 (Sub-No. 288X)  
Union Pacific Railroad Company – Discontinuance Exemption – In Collin and Dallas  
Counties, Texas

Dear Sir or Madam:

Regional Rail Right of Way Company ("RRROW"), an affiliate of Dallas Area Rapid Transit, expects shortly to file with the Surface Transportation Board (the "Board") a notice of exemption from the provisions of 49 U.S.C. § 10903 to abandon common carrier freight service over a portion of the Cotton Belt Line between approximately milepost 592.43 at Renner Junction and approximately milepost 597.77 at Knoll Trail Road (the "Subject Line"). The total distance of the Subject Line is approximately 5.34 miles, within Collin and Dallas Counties, Texas. Simultaneously, Dallas, Garland & Northeastern Railroad, Inc. ("DGNO") and Union Pacific Railroad Company ("UP") will file for discontinuance of trackage rights on the Subject Line. The notice of exemption will be filed pursuant to 49 C.F.R. § 1152.50. A map showing the location of the Subject Line is attached for your reference.

In accordance with the Board's environmental regulations, 49 C.F.R. § 1105, we are advising you of the proposed abandonment and discontinuance so that you may assist us in identifying any potential effects it may have on the following:

1. Regional or local land use plans, including any prime agricultural land;
2. Regional or local transportation systems and patterns, including alternative transportation modes;

All Parties on the Enclosed Environmental Consultation List

October 19, 2009

Page 2

3. Recyclable commodities;
3. Energy consumption and efficiency;
4. Air emissions and noise levels;
5. Bodies of water and overall water quality under applicable federal, state or local standards;
6. Designated wetlands and 100-year flood plains;
7. Endangered or threatened species and critical habitats;
8. Wildlife sanctuaries or refuges and national or state parks or forests;
9. Existing or potential safety hazards; or
10. Coastal Zone Management Areas.

Please also advise us if permits under Section 402 or 404 of the Clean Water Act (33 U.S.C. § § 1342, 1344) are required for the proposed abandonment and discontinuance.

No rail freight operations have occurred on the Subject Line during the last two (2) years. Accordingly, we foresee no adverse environmental effects given the limited nature of the proposed abandonment and discontinuance. We would appreciate your review of the proposed action and provision of any comments you may have in a written response as soon as possible. Any written comments should reference Docket No. AB-1050X, Docket No. AB-585 (Sub-No. 4X) and Docket No. AB-33 (Sub-No. 288X), and be sent to the undersigned, with a copy to:

Surface Transportation Board  
Section of Environmental Analysis  
Room 1106  
395 E Street, SW  
Washington, DC 20423-0001

In accordance with the Board's regulations, a copy of the Environmental Report prepared in connection with this abandonment will be forwarded to you at least twenty days before RRROW's notice of exemption is filed at the Board. If you have any questions or need additional information in the meantime, please feel free to contact me at 202-778-9469.

Very truly yours,



Peter W. Denton

Enclosures



All Parties on the Enclosed Environmental Consultation List

October 19, 2009

Page 3

**ENVIRONMENTAL CONTACT LIST**

STB Docket No. AB-1050X

Regional Rail Right of Way Company – Abandonment Exemption – In Collin and Dallas  
Counties, Texas

STB Docket No. AB-585 (Sub-No. 4X)

Dallas, Garland and Northeastern Railroad – Discontinuance Exemption – In Collin and Dallas  
Counties, Texas

STB Docket No. AB-33 (Sub-No. 288X)

Union Pacific Railroad Company – Discontinuance Exemption – In Collin and Dallas Counties,  
Texas

**STATE/LOCAL AGENCIES CONSULTED**

**STATE CLEARINGHOUSE**

Texas Governor's Office of Budget, Planning, and Policy

P.O. Box 12428

Austin, TX 78711-2428

(512) 463-2000

**STATE HISTORIC PRESERVATION OFFICE**

Texas Historical Commission

P.O. Box 12276

Austin, TX 78711-2276

(512) 463-6100

**STATE ENVIRONMENTAL PROTECTION AGENCY**

Texas Commission on Environmental Quality

P.O. Box 13087

Austin, TX 78711-3087

(512) 239-100

**STATE COASTAL ZONE MANAGEMENT**

Texas Coastal Management Division 1

1700 North Congress Street

Austin Building

Austin, TX 78701

(512) 463-5054

**COLIN COUNTY**

All Parties on the Enclosed Environmental Consultation List

October 19, 2009

Page 4

Ruben E. Delgado  
Director of Engineering  
Collin County  
825 McDonald Street, Suite 160  
McKinney, TX 75069

DALLAS COUNTY  
Donald Holzwarth  
Director of Public Works  
Dallas County  
411 Elm Street, 4th Floor  
Dallas, TX 75202

## **FEDERAL AGENCIES CONSULTED**

ENVIRONMENTAL PROTECTION AGENCY – REGION 6  
1445 Ross Avenue  
Suite 1200  
Dallas, TX 75202  
(214) 665-6444 (General Information)  
(214) 665-7113 (Fax)  
(800) 881-6063 (Toll free)

U.S. FISH AND WILDLIFE SERVICE – REGION 2  
500 Gold Avenue, SW  
Albuquerque, NM 87102  
(505) 248-6911 (Regional Director's Office)  
(505) 248-6910 (Fax - Regional Director's Office)

U.S. ARMY CORPS OF ENGINEERS – SOUTHWESTERN DIVISION  
1100 Commerce Street, Suite 831  
Dallas, TX 75242-1317  
(469) 487-7007

U.S. NATIONAL PARK SERVICE – INTERMOUNTAIN REGION  
12795 Alameda Pkwy  
Denver, CO 80225  
(303) 969-2500

NATURAL RESOURCES CONSERVATION SERVICE  
U.S. Department of Agriculture  
101 South Main

All Parties on the Enclosed Environmental Consultation List  
October 19, 2009  
Page 5

Temple, TX 76501  
(254) 742-9800

NATIONAL GEODETIC SURVEY  
NGS Information Services, NOAA, N/NGS12  
National Geodetic Survey SSMC-3, #9202  
1315 East-West Highway  
Silver Spring, MD 20910-3282

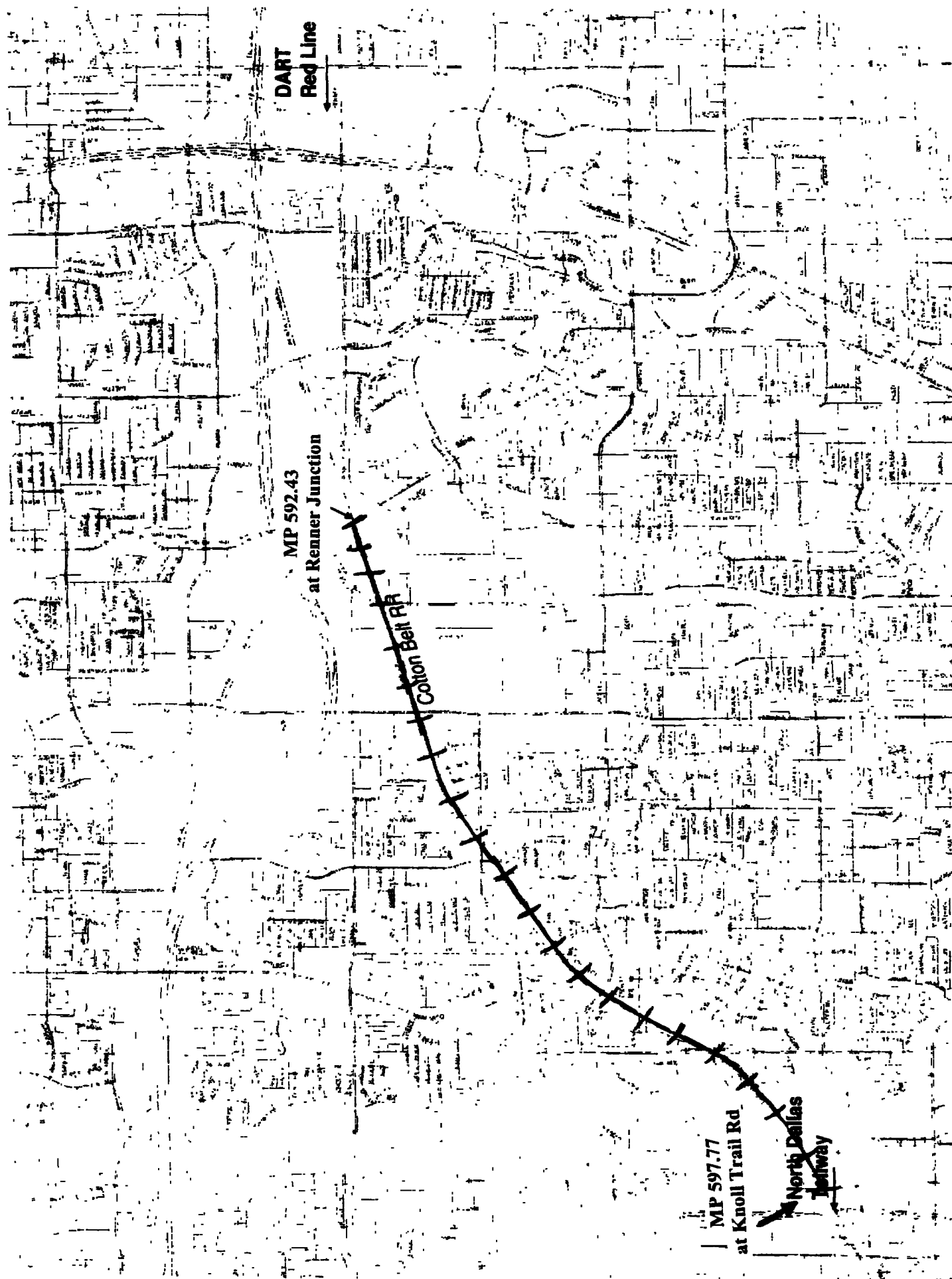
DART  
Red Line

MP 592.43  
at Renner Junction

Cotton Belt RR

MP 597.77  
at Knoll Trail Rd

North Dallas  
Tollway



## **APPENDIX C**

### **Correspondence with National Resources Conservation Service**

United States Department of Agriculture



Natural Resources Conservation Service  
101 South Main  
Temple, TX 76501-7602

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November 3, 2009

Mr. Peter W. Denton  
K&L Gates LLP  
1601 K. Street, NW  
Washington, DC 20006-1600

Re: Docket No. AB-1050X, Docket No. AB-585 (Sub-No. 4X), and  
Docket No. AB-33 (Sub-No. 288X)

Dear Mr. Denton:

We have reviewed the information pertaining to Regional Rail Right of Way Company – Abandonment Exemption – Collin and Dallas Counties, Texas; Dallas, Garland and Northeastern Railroad – Discontinuance Exemption – Collin and Dallas Counties, Texas; and Union Pacific Railroad Company – Discontinuance Exemption – Collin and Dallas Counties, Texas.

These projects should have no significant adverse impact on the environment or natural resources in the area. We do not require any permits, easements, or approvals for activities such as this.

Thank you for the opportunity to review these proposed projects.

Sincerely,

A handwritten signature in cursive script that reads "Steven Beckman".

For

DONALD W. GOHMERT  
State Conservationist

*Helping People Help the Land*

An Equal Opportunity Provider and Employer

## APPENDIX D

### Photographs of Historic-age Bridges along Subject Line



Photo 1: Overview of Spanky Branch Bridge (Milepost 595.27), looking northeast



Photo 2: Detail of through-plate girder of Spanky Branch Bridge (Milepost 595.27), looking east

Appendix D (continued): Photographs of Historic-age Bridges along Subject Line



Photo 3: Detail of through-plate girder of Spanky Branch Bridge (Milepost 595.27), looking north



Photo 4: Detail of through-plate girder and abutment of Spanky Branch Bridge (Milepost 595.27), looking northeast



Appendix D (continued): Photographs of Historic-age Bridges along Subject Line



Photo 5: Overview of Spanky Branch Bridge (Milepost 595.68), looking northeast

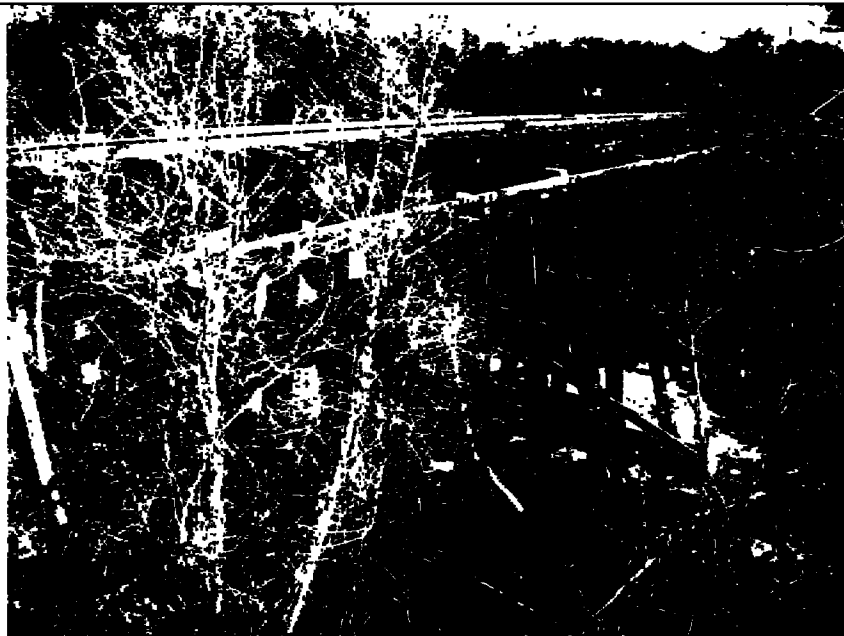


Photo 6: View of Spanky Branch Bridge (Milepost 595.68), looking north

Appendix D (continued): Photographs of Historic-age Bridges along Subject Line



Photo 7: View of Spanky Branch Bridge (Milepost 595.68), looking east



Photo 8: Detail of trestle at Spanky Branch Bridge (Milepost 595.68), looking east

Appendix D (continued): Photographs of Historic-age Bridges along Subject Line



Photo 9: Overview of McCamy Branch Bridge (Milepost 596.16), looking north



Photo 10: View of McCamy Branch Bridge (Milepost 596.16), looking northeast

Appendix D (continued): Photographs of Historic-age Bridges along Subject Line



Photo 11: View of McCamy Branch Bridge (Milepost 596.16), looking northwest



Photo 12: Detail of trestle at McCamy Branch Bridge (Milepost 596.16), looking northeast

Appendix D (continued): Photographs of Historic-age Bridges along Subject Line



Photo 13: Overview of White Rock Creek Bridge (Milepost 597.23), looking northeast



Photo 14: Detail of pony truss, White Rock Creek Bridge (Milepost 597.23), looking north

Appendix D (continued): Photographs of Historic-age Bridges along Subject Line



Photo 15: Detail of pony truss, White Rock Creek Bridge (Milepost 597.23), looking east



Photo 16: Detail of pony truss, White Rock Creek Bridge (Milepost 597.23), looking north

Appendix D (continued): Photographs of Historic-age Bridges along Subject Line

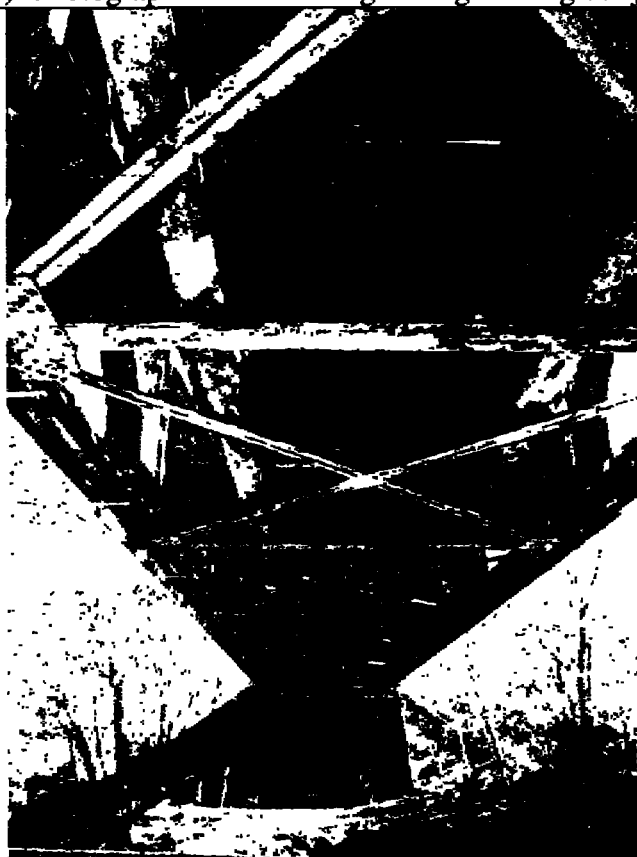


Photo 17: Detail of deck and abutment, White Rock Creek Bridge (Milepost 597.23), looking northeast



Photo 18: Detail of manufacturer's plaque, White Rock Creek Bridge (Milepost 597.23), looking northeast

## **APPENDIX E**

### **Correspondence with Texas Historical Commission**



November 18, 2009

Peter W. Denton  
D 202.778.9469  
F 202.778.9100  
peter.denton@klgates.com

**Via Federal Express**

Mark Wolfe  
State Historic Preservation Officer  
Texas Historical Commission  
P.O. Box 12276  
Austin, Texas 78711-2276  
Attention: Linda Henderson, History Programs Division

Re: STB Docket No. AB-1050X  
Regional Rail Right of Way Company — Abandonment Exemption — In Collin and  
Dallas Counties, Texas

STB Docket No. AB-585 (Sub-No. 4X)  
Dallas, Garland and Northeastern Railroad, Inc. — Discontinuance Exemption — In  
Collin and Dallas Counties, Texas

STB Docket No. AB-33 (Sub-No. 288X)  
Union Pacific Railroad Company — Discontinuance Exemption — In Collin and  
Dallas Counties, Texas

Dear Mr. Wolfe:

As noted in our letter dated October 19, 2009, Regional Rail Right of Way Company ("RRROW"), an affiliate of Dallas Area Rapid Transit ("DART"), expects shortly to file with the Surface Transportation Board (the "Board") a notice of exemption from the provisions of 49 U.S.C. § 10903 to abandon common carrier freight service over a portion of the Cotton Belt railroad line between approximately milepost 592.43 at Renner Junction and approximately milepost 597.77 at Knoll Trail Road (the "Subject Line"). The total distance of the Subject Line is approximately 5.34 miles, within Collin and Dallas Counties, Texas. Simultaneously, Dallas, Garland & Northeastern Railroad, Inc. ("DGNO") and Union Pacific Railroad Company ("UP") will file for discontinuance of trackage rights on the Subject Line. The notice of exemption will be filed pursuant to 49 C.F.R. § 1152.50. A map showing the location of the Subject Line is attached for your reference.

In accordance with the Board's historic preservation regulations, 49 C.F.R. § 1105.8, we are advising you of the proposed abandonment and discontinuance of service.

Texas Historical Commission  
November 18, 2009  
Page 2

## Historic Background

The Subject Line was constructed in approximately 1888 by the St. Louis, Arkansas and Texas Railway Company as part of a route between Mt. Pleasant and Ft. Worth, and eventually came under control of the St. Louis Southwestern Railway Company ("SSW").

Dallas Area Rapid Transit Property Acquisition Corporation ("DARTPAC") acquired the Subject Line from SSW in 1990 for future use as a public transit corridor. See Dallas Area Rapid Transit Property Acquisition Corporation – Acquisition and Operation Exemption – Rail Lines of Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, and Dallas Terminal and Union Depot Company, Finance Docket No. 31267 (ICC served December 3, 1990) (authorizing, *inter alia*, DARTPAC's acquisition of the SSW rail line between Ft. Worth, TX at approximately milepost 632.27 and Wylie, TX at approximately milepost 578.20). As part of that transaction, DARTPAC granted SSW local and overhead trackage rights over the Subject Line. See St. Louis Southwestern Railway Company – Trackage Rights Exemption – Dallas Area Rapid Transit Property Acquisition Corporation, Finance Docket No. 31806 (ICC served January 11, 1991).

In 1999, DGNO acquired from Union Pacific Railroad Company ("UP"), a successor in interest to SSW, local trackage rights over the Subject Line. See Dallas, Garland & Northeastern Railroad, Inc. – Lease Exemption – Union Pacific Railroad Company, Finance Docket No. 33686 (STB served February 5, 1999) (authorizing, *inter alia*, DGNO's acquisition of local trackage rights between milepost 603.5, at Carrollton, and milepost 580.19, at Wylie).

In 2003, DART acquired from RRROW, a successor in interest to DARTPAC, the right, title, and ownership interest in the right-of-way, trackage, and other physical assets associated with the Subject Line, subject to RRROW's reservation of an exclusive, perpetual freight rail operating easement. See Dallas Area Rapid Transit – Acquisition Exemption – Certain Assets of Regional Rail Right of Way Company, Finance Docket No. 34346 (STB served June 3, 2003) (authorizing, *inter alia*, DART's acquisition of the line of railroad extending between approximately milepost 632.27 near Ft. Worth, TX, and approximately milepost 578.20 near Wylie, TX).

As a result of the foregoing transactions, DART currently owns the Subject Line, RRROW owns a freight rail operating easement over the Subject Line (including the attendant residual common carrier obligation to provide freight service), and DGNO owns local trackage rights over the Subject Line. While RRROW does not believe that UP retained any trackage rights over the Subject Line as a result of the aforementioned 1999

Texas Historical Commission  
November 18, 2009  
Page 3

transaction with DGNO, UP is joining this action out of an abundance of caution to discontinue any trackage rights that UP may own over the Subject Line.

DGNO no longer provides freight rail service on the Subject Line. UP has not provided freight service on the line for many years. DART does not at this point use the Subject Line as part of its rail transit system, but may do so in the future. No freight rail traffic of any kind has moved on the Subject Line for at least the last two (2) years. Therefore, no operational changes are anticipated as a result of the proposed abandonment and discontinuance.

### Historic Resources

Based on information in RRROW's possession, a search of the Texas Historic Sites Atlas, and a field survey performed by an architectural historian meeting the Secretary of the Interior's qualifications, there are four bridges 50 years old or older located on the Subject Line, the relevant characteristics of which are described in Table 1. Photographs of these bridges are presented in Attachment A.

**Table 1. Historic Resources Survey Data**

<i>Name</i>	<i>Location</i>	<i>Date of Construction</i>	<i>Description</i>	<i>Engineer/Builder</i>	<i>NRHP Eligibility</i>	<i>Comment</i>
Spanky Branch Bridge 1	Approximately milepost 595.27	1931	Through Plate girder (41-foot span) over Spanky Branch	unknown	not eligible	lack of historic significance
Spanky Branch Bridge 2	Approximately milepost 595.68	1931	Open Deck Pile Trestle (14-foot span)	unknown	not eligible	lack of historic significance; lack of historic integrity
McCamy Branch Bridge	Approximately milepost 596.16	1937	Open Deck Pile Trestle (14-foot span)	unknown	not eligible	lack of historic significance; lack of historic integrity
White Rock Creek Bridge	Approximately milepost 597.23	1917	Pony Truss (125-foot span)	American Bridge Company	potentially eligible (Criterion C)	historically significant; possesses all seven aspects of integrity

Based on a field survey of the bridges and previous determinations of eligibility for similar bridges in the area, only the Pony Truss bridge (MP 597.23) appears to retain its historic integrity and is potentially eligible for the National Register of Historic Places (NRHP) (49 C.F.R. § 60.4) under NRHP Criterion C as a good example of the Pony Truss type of railroad bridge design. The remaining three bridges, Spanky Branch Bridge 1 (MP 595.27), Spanky Branch Bridge 2 (MP 595.68), and McCamy Branch Bridge (MP 596.16) do not possess the significance necessary for eligibility for listing on the NRHP and in the case

Texas Historical Commission  
November 18, 2009  
Page 4

of both open deck pile bridges, appear to have been repaired with newer structural members, such that very little of the original bridge materials remain. Neither RRROW nor DART anticipates removing or altering any of these bridges as a result of the abandonment and discontinuance. Thus, there would be no effect to the bridges.

### Archaeological Resources

An archaeologist meeting the Council for Texas Archaeology's professional requirements for archaeologists and the Secretary of the Interior's Professional Qualifications Standards for Historic Preservation Projects has conducted a search of the Texas Archaeological Sites Atlas (TASA) in order to identify any known archaeological sites in the project area. A summary of the results is shown in Table 2.

**Table 2. Texas Archaeological Sites Atlas Search Results**

<i>Date</i>	<i>Agency</i>	<i>Survey Type and Results</i>	<i>Investigating Firm</i>
unknown	unknown	unknown: recorded site (41DL43)	unknown
2005	HUD	survey and testing: no significant cultural materials identified	AR Consultants, Inc.

One known archaeological site, 41DL43, along White Rock Creek west of Preston Road with a centroid located approximately 113 meters northwest of the Subject Line was identified. There is no other information about the site or its boundaries in the TASA. In addition, an archaeological survey was conducted in 2005 by Thomas A. Jennings for AR Consultants for the Keller Springs development area in Dallas along and northwest of the Subject Line southwest of the intersection of the tracks and Preston Road. No significant cultural materials were identified in the project area. There are no other known archaeological sites in creek areas along the Subject Line. Should other sites exist, there would be no impacts due to this abandonment.

### Conclusions

A field survey and search of the Texas Historic Sites Atlas and Texas Archaeological Sites Atlas revealed the presence of four historic-age bridges, one archaeological site, and one archaeological survey within or near the Subject Line. One historic resource, the Pony Truss Bridge over White Rock Creek (MP 597.23) is recommended potentially eligible for inclusion in the National Register of Historic Places under Criterion C. The remaining three bridges are recommended not eligible for inclusion in the National Register of Historic

Texas Historical Commission  
November 18, 2009  
Page 5

Places. The proposed project, which consists of abandonment and discontinuance of freight service along the Subject Line, will result in no impacts to historic and archaeological resources.

Recommendations

We respectfully request the concurrence of the Texas Historical Commission regarding the conclusions herein. We also respectfully request the opinion of the THC as to the likelihood of additional archaeological resources in the project area. It should be noted that DART will be undertaking an environmental assessment in year 2010 for proposed passenger rail in the Cotton Belt Corridor. A formal determination of eligibility and effects to historic standing structures and archaeological resources would be conducted at that time in consultation with THC.

We would appreciate your review of the proposed action and provision of any comments you may have in a written response as soon as possible. Any written comments should reference Docket No. AB-1050X, Docket No. AB-585 (Sub-No. 4X) and Docket No. AB-33 (Sub-No. 288X), and be sent to the undersigned, with a copy to:

Surface Transportation Board  
Section of Environmental Analysis  
Room 1106  
395 E Street, SW  
Washington, DC 20423-0001

In accordance with the Board's regulations, a copy of the Environmental and Historic Report prepared in connection with this abandonment will be forwarded to you at least twenty days before RRROW's notice of exemption is filed at the Board. If you have any questions or need additional information in the meantime, please feel free to contact me at 202-778-9469.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Peter W. Denton', written over a horizontal line.

Peter W. Denton

PWD  
Enclosure

Texas Historical Commission  
November 18, 2009  
Page 6

## Attachment A: Photographs of Historic-age Bridges along Subject Line



Photo 1: Overview of Spanky Branch Bridge (Milepost 595.27), looking northeast



Photo 2: Detail of through-plate girder of Spanky Branch Bridge (Milepost 595.27), looking east



Photo 3: Detail of through-plate girder of Spanky Branch Bridge (Milepost 595.27), looking north



Photo 4: Detail of through-plate girder and abutment of Spanky Branch Bridge (Milepost 595.27), looking northeast

Texas Historical Commission  
November 18, 2009  
Page 8



Photo 5: Overview of Spanky Branch Bridge (Milepost 595.68), looking northeast

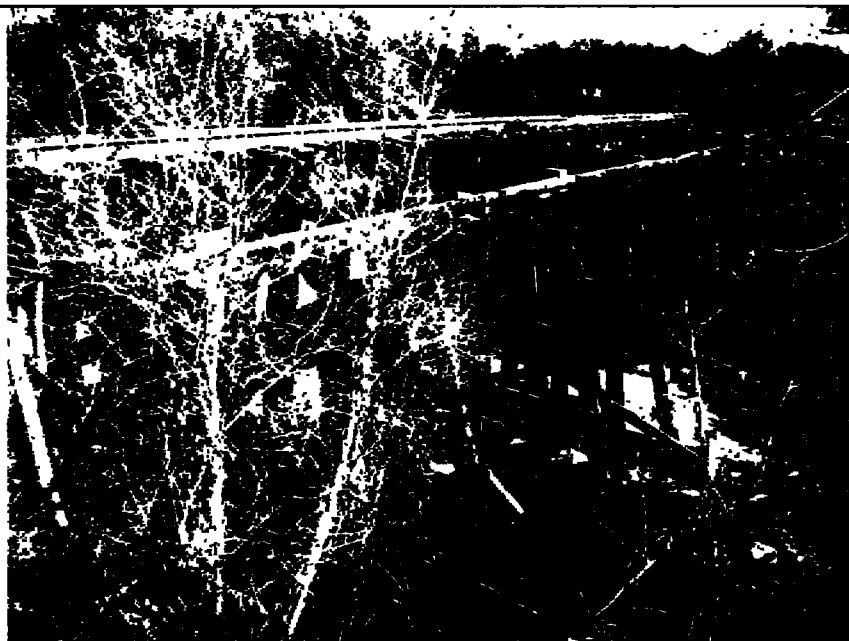


Photo 6: View of Spanky Branch Bridge (Milepost 595.68), looking north



Texas Historical Commission  
November 18, 2009  
Page 9



Photo 7: View of Spanky Branch Bridge (Milepost 595.68), looking east



Photo 8: Detail of trestle at Spanky Branch Bridge (Milepost 595.68), looking east

Texas Historical Commission  
November 18, 2009  
Page 10



Photo 9: Overview of McCamy Branch Bridge (Milepost 596.16), looking north

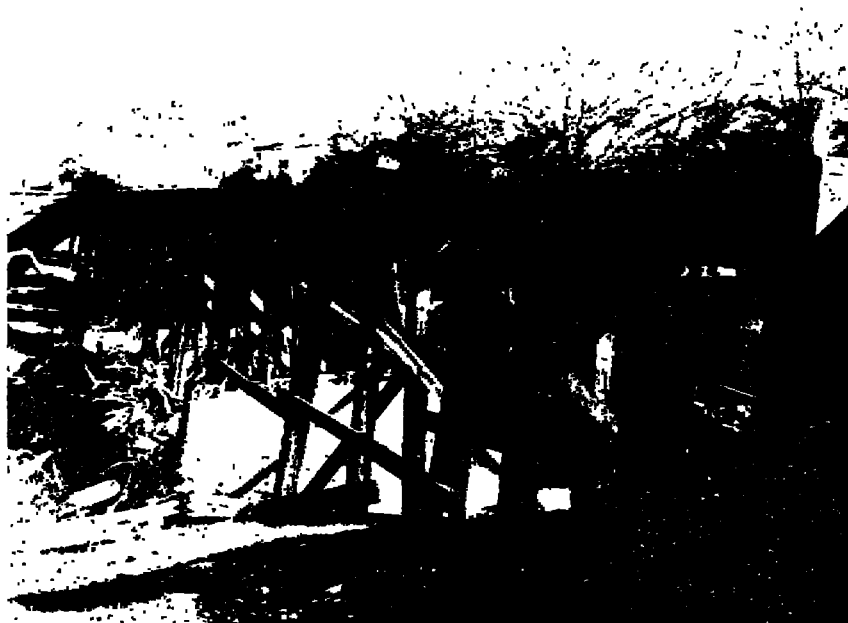


Photo 10: View of McCamy Branch Bridge (Milepost 596.16), looking northeast

Texas Historical Commission  
November 18, 2009  
Page 11



Photo 11: View of McCamy Branch Bridge (Milepost 596.16), looking northwest



Photo 12: Detail of trestle at McCamy Branch Bridge (Milepost 596.16), looking northeast

Texas Historical Commission  
November 18, 2009  
Page 12



Photo 13: Overview of White Rock Creek Bridge (Milepost 597.23), looking northeast



Photo 14: Detail of pony truss, White Rock Creek Bridge (Milepost 597.23), looking north

Texas Historical Commission  
November 18, 2009  
Page 13



Photo 15: Detail of pony truss, White Rock Creek Bridge (Milepost 597.23), looking east



Photo 16: Detail of pony truss, White Rock Creek Bridge (Milepost 597.23), looking north

Texas Historical Commission  
November 18, 2009  
Page 14

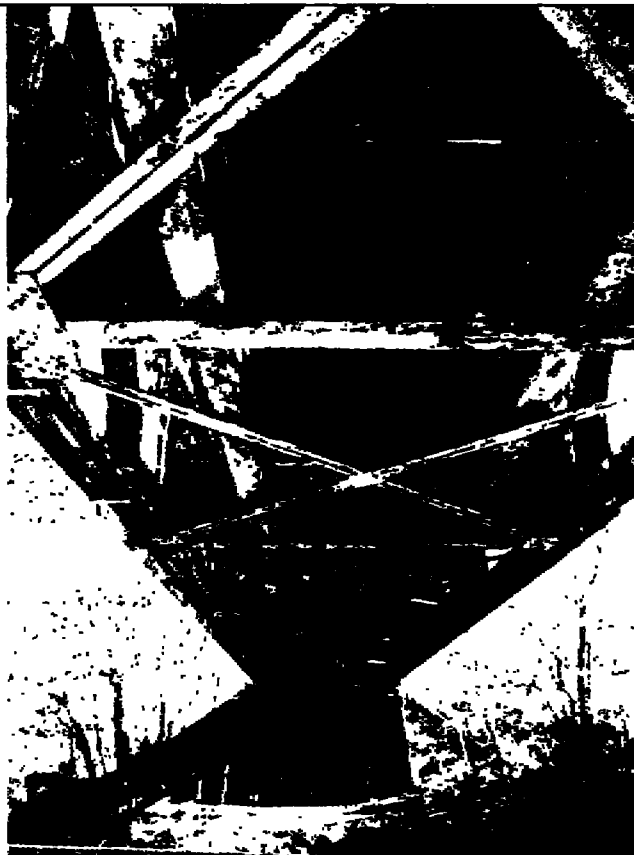


Photo 17: Detail of deck and abutment, White Rock Creek Bridge (Milepost 597.23), looking northeast

Texas Historical Commission  
November 18, 2009  
Page 15



Photo 18: Detail of manufacturer's plaque, White Rock Creek Bridge (Milepost 597.23),  
looking northeast

## APPENDIX F

### CERTIFICATE OF SERVICE

I, Peter W. Denton, hereby certify that Regional Rail Right of Way Company has consulted with all appropriate agencies in preparing the foregoing Environmental/Historic Report and that on November 18, 2009, a copy of the foregoing report was served by Federal Express, postage prepaid, upon each of the following agencies as designated in 49 C.F.R. §§ 1105.7(b) and 1105.8(c):

#### STATE CLEARINGHOUSE

Texas Governor's Office of Budget, Planning, and Policy  
P.O. Box 12428  
Austin, TX 78711-2428  
(512) 463-2000

#### STATE HISTORIC PRESERVATION OFFICE

Texas Historical Commission  
P.O. Box 12276  
Austin, TX 78711-2276  
(512) 463-6100

#### STATE ENVIRONMENTAL PROTECTION AGENCY

Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087  
(512) 239-100

#### STATE COASTAL ZONE MANAGEMENT

Texas Coastal Management Division 1  
1700 North Congress Street  
Austin Building  
Austin, TX 78701  
(512) 463-5054

#### COLIN COUNTY

Ruben E. Delgado  
Director of Engineering  
Collin County  
825 McDonald Street, Suite 160  
McKinney, TX 75069

#### DALLAS COUNTY

Donald Holzwarth  
Director of Public Works  
Dallas County



411 Elm Street, 4th Floor  
Dallas, TX 75202

**ENVIRONMENTAL PROTECTION AGENCY – REGION 6**

1445 Ross Avenue  
Suite 1200  
Dallas, TX 75202  
(214) 665-6444 (General Information)  
(214) 665-7113 (Fax)  
(800) 881-6063 (Toll free)

**U.S. FISH AND WILDLIFE SERVICE – REGION 2**

500 Gold Avenue, SW  
Albuquerque, NM 87102  
(505) 248-6911 (Regional Director's Office)  
(505) 248-6910 (Fax - Regional Director's Office)

**U.S. ARMY CORPS OF ENGINEERS – SOUTHWESTERN DIVISION**

1100 Commerce Street, Suite 831  
Dallas, TX 75242-1317  
(469) 487-7007

**U.S. NATIONAL PARK SERVICE – INTERMOUNTAIN REGION**

12795 Alameda Pkwy  
Denver, CO 80225  
(303) 969-2500

**NATURAL RESOURCES CONSERVATION SERVICE**

U.S. Department of Agriculture  
101 South Main  
Temple, TX 76501  
(254) 742-9800

**NATIONAL GEODETIC SURVEY**

NGS Information Services, NOAA, N/NGS12  
National Geodetic Survey SSMC-3, #9202  
1315 East-West Highway  
Silver Spring, MD 20910-3282



Peter W. Denton

Dated: November 18, 2009

APPENDIX G

CERTIFICATE OF PUBLICATION PURSUANT TO 49 C.F.R. § 1105.12

I, Peter W. Denton, hereby certify that I have contacted the newspaper of general circulation for the county in which the rail line to be abandoned in this proceeding is located and arranged for the publication of a Notice of Intent to Abandon and Discontinue pursuant to 49 C.F.R. § 1105.12:

The Dallas Morning News  
P.O. Box 655237  
Dallas, TX 75265-5237

Proof of publication from The Dallas Morning News is attached.

---

Peter W. Denton

Dated: November 18, 2009

AFFIDAVIT OF PUBLICATION

STATE OF TEXAS

COUNTY OF DALLAS

Before me, a Notary Public in and for Dallas County, this day personally appeared Mert Tezkol, Advertising Representative for the DALLAS MORNING NEWS, being duly sworn by oath, states the attached advertisement of:

D.A.R.T.


as published in The Dallas Morning News on:

October 18, 2009

  
(Mert Tezkol)

Sworn to and subscribed before me this

October 19, 2009

  
(Notary Public)

